

04-181

**Agreement on Extradition, Mutual Assistance
in Law Enforcement Matters and Penal Sanctions
Concluded Pursuant to Section 175 of
The Amended Compact of Free Association**

**Agreement in Implementation
of Section 175 of
The Amended Compact of Free Association**

TABLE OF CONTENTS

TITLE ONE	Definitions	Pg. 1-1
TITLE TWO	Extradition	Pg. 2-1 to 2-17
Article I	Obligation to Extradite	Pg. 2-1
Article II	Extraditable Offenses	Pg. 2-2
Article III	Exceptions to Extradition	Pg. 2-3
Article IV	Capital Punishment	Pg. 2-4
Article V	Deferred or Temporary Surrender	Pg. 2-5
Article VI	Extradition Procedures and Required Documents	Pg. 2-6 to 2-7
Article VII	Provisional Arrest or Detention	Pg. 2-8
Article VIII	Rule of Specialty	Pg. 2-9
Article IX	Multiple Extradition Requests	Pg. 2-10
Article X	Surrender	Pg. 2-11
Article XI	Waiver	Pg. 2-12
Article XII	Surrender of Property	Pg. 2-13
Article XIII	Transit	Pg. 2-14
Article XIV	Expenses	Pg. 2-15
Article XV	Extradition of Citizens or Nationals	Pg. 2-16

Article XVI	Relationship with Other Agreements	Pg. 2-17
TITLE THREE	Judicial Assistance	Pg. 3-1
TITLE FOUR	Execution of Penal Sanctions	Pg. 4-1 to 4-8
Article I	Scope	Pg. 4-1
Article II	Definitions	Pg. 4-2
Article III	Eligibility	Pg. 4-3
Article IV	Transfer Procedures	Pg. 4-4 to 4-5
Article V	Execution of Sentence	Pg. 4-6
Article VI	Review or Modification of Sentence	Pg. 4-7
Article VII	Transit	Pg. 4-8
TITLE FIVE	Mutual Assistance In Law Enforcement Matters	Pg. 5-1 to 5-2
TITLE SIX	Effective Date, Amendment and Duration	Pg. 6-1
APPENDIX A	Agreed Minute	Appx. A-1

**Agreement on Extradition, Mutual Assistance
in Law Enforcement Matters and Penal Sanctions
Concluded Pursuant to Section 175 of
The Amended Compact of Free Association**

This Agreement is concluded by the Government of the Republic of the Marshall Islands and the Government of the United States as an international agreement and sets forth the obligations, duties, and procedures between the Governments of the Republic of the Marshall Islands and the United States regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and transfer of prisoners pursuant to section 175 of the amended Compact of Free Association. With respect to the Republic of the Marshall Islands and the United States, this Agreement supercedes the Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Assistance in Law Enforcement Matters signed July 21, 1986 and the Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association signed May 30, 1982 and October 1, 1982.

TITLE ONE

DEFINITIONS

Article I

Definitions

1. The definition of terms set forth in Article II of Title Four of the amended Compact is incorporated in this Agreement.
2. For the purposes of Titles Two, Three and Four of this Agreement only, the following terms shall have the following meanings:
 - (a) "Signatory Governments" means the Government of the United States and the Government of the Republic of the Marshall Islands. As used here, the Government of the United States shall include the Governments of the states of the United States of America, the United States' territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.
 - (b) "Jurisdiction" is used in a geographic sense. The term "jurisdiction of the requesting/requested Government" when applied to the Government of the Republic of the Marshall Islands means "the Republic of the Marshall Islands" as defined in section 461(c) of the amended Compact.
 - (c) "Judge" as used in this Agreement shall include any judicial officer of a "Signatory Government" who has the authority to issue a warrant of arrest or its equivalent.
 - (d) "Investigation" means an investigation being conducted by a grand jury or by a law enforcement or administrative agency of a "Signatory Government".
 - (e) "Proceeding" means a proceeding before an administrative or judicial tribunal of a "Signatory Government".

TITLE TWO

EXTRADITION

Article I

Obligation to Extradite

The Government of the United States shall extradite to the Republic of the Marshall Islands, and the Government of the Republic of the Marshall Islands shall extradite to the United States, *subject to the provisions and conditions described in this Agreement*, any person found in their respective jurisdictions against whom the requesting Government is proceeding for an offense or who is wanted by that Government for the enforcement of a sentence.

Article II

Extraditable Offenses

1. (a) An offense shall be an extraditable offense if it is punishable under the laws in both signatory countries by deprivation of liberty for a period of more than one year or by a more severe penalty.

(b) For purposes of extradition, it shall not matter whether the laws of the requesting and requested Signatory Governments place the offense within the same category of offenses or describe an offense by the same terminology.
2. Extradition shall be granted in respect of an extraditable offense for the enforcement of a penalty or prison sentence if the duration of the penalty or prison sentence still to be served amounts to at least six months.
3. ~~Subject to the conditions set out in paragraph 1 of this Article extradition shall~~
also be granted:
 - (a) For attempt or conspiracy to commit, or participation as a principal, accomplice or accessory in, any extraditable offense; and
 - (b) For any otherwise extraditable offense, whether or not the offense is one for which the laws of the United States require proof of interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such considerations being solely for the purpose of establishing jurisdiction in a federal court of the United States.
4. When a request for extradition is granted in respect of an extraditable offense, it may also be granted for an offense which could not otherwise fulfill the requirements of paragraphs 1 or 2 of this Article as related to the period of deprivation of liberty for which the offense is punishable or as related to the duration of the sentence to be served in the jurisdiction of the requesting Government.
5. Extradition shall be granted in respect of an extraditable offense committed outside the territory of the requesting Signatory Government if:
 - (a) The courts of the requested Government would be competent to prosecute in similar circumstances; or
 - (b) The person sought is a citizen or national of the requesting Government.

Article III

Exceptions to Extradition

1. Extradition shall not be granted:
 - (a) When the person whose surrender is sought is being prosecuted or has been convicted, discharged or acquitted by the requested Government for the offense for which extradition is requested; or
 - (b) When the prosecution of the offense is barred by lapse of time according to the laws of the requesting Government.
2. Subject to paragraph 3 of this Article, extradition may be refused when the Executive Authority of the requested Government, in its sole discretion, determines:

 - (a) That the offense in relation to which extradition is requested is of a political character; or
 - (b) That the request for extradition has been made for the purpose of trying or punishing the person whose extradition is sought for an offense of a political character.
3. Extradition shall not be refused on the basis of paragraph 2 of this Article where extradition is requested involves a murder or other violent crimes against a person, including attempts, against the life or physical integrity of a Head of State or Head of Government or of a member of the Head of State's or Head of Government's family or any other internationally protected person, including resident representatives, or where the offense for which extradition is sought is one which the requesting and the requested Government has the obligation to extradite the person sought or to prosecute by reason of a multilateral treaty or other international agreement or where the offense for which extradition is sought involves placing or using an explosive, incendiary or destructive device capable of endangering life, or causing substantial bodily harm, or of causing substantial property damage, or a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

Article IV

Capital Punishment

When the offense for which extradition is requested is punishable by death under the laws of the requesting Government and the laws of the requested Government do not permit such punishment for that offense, extradition may be refused unless the requesting Government provides such assurances as the Executive Authority of the requested Government considers sufficient that the death penalty will not be imposed, or, if imposed, will not be executed.

Article V

Deferred or Temporary Surrender

After a decision on a request for extradition has been rendered in the case of a person who is being proceeded against or is serving a sentence in the jurisdiction of the United States or the Republic of the Marshall Islands for an offense other than that for which extradition has been requested, the requested Government may defer the surrender of the person sought until the conclusion of the proceedings against that person, or the full execution of any punishment that may be, or may have been, imposed; or temporarily surrender the person sought to the requesting Government solely for the purpose of prosecution. The person so surrendered shall remain in custody during the period of surrender and shall be returned at the conclusion of the proceedings against that person in accordance with conditions to be determined by agreement of the Executive Authorities of the Signatory Governments.

Article VI

Extradition Procedures and
Required Documents

1. The request for extradition shall be made to the requested national Government by the requesting national Government on behalf of itself or one or more political subdivisions. All requests for extradition shall be submitted through the diplomatic channel. Such requests, supporting documentation and notices shall be in the English language.
2. The request shall be accompanied by a description of the person sought, a statement of the facts of the case, the text of the applicable provisions of the laws of the requesting Government describing the offense and punishment, and a statement of its applicable laws relating to proceedings barred by lapse of time.
- ~~3. When the request relates to a person who has not yet been convicted, it shall also~~ be accompanied by a copy of a warrant of arrest issued by a judge or other judicial officer of the requesting Government and by such evidence as would provide probable cause, according to the laws of the requested Government, to believe that the person sought has committed the offense for which extradition is requested.
4. When the request relates to a convicted person, it shall be supported by a copy of the judgment of conviction and evidence establishing that the person sought is the person to whom the conviction refers. If no sentence has been imposed, the request for extradition shall be accompanied by a statement to that effect. If a sentence has been imposed, the request for extradition shall be accompanied by a statement to that effect; by a copy of the sentence or committal order and by a statement showing the portion of the sentence remaining to be served.
5. Documentary evidence from the requesting Government in support of a request for extradition shall be deemed duly authenticated and shall be admissible in evidence in the extradition hearing when it bears a seal of the requesting Government, the authenticity of which is attested to by the principal diplomatic or principal consular officer of the requested Government assigned or accredited to the requesting Government.

6. The requested Government shall promptly communicate to the requesting Government the decision on the request for extradition.
-

Article VII

Provisional Arrest or Detention

1. In case of urgency, a requesting Government may apply to the requested Government for the provisional arrest or detention of the person sought pending the presentation of the formal request for extradition. The request may be transmitted to the requested Government through the diplomatic channel or directly between the United States Department of Justice and the Republic of the Marshall Islands Ministry of Justice.
2. The application shall contain: a description of the person sought, including, if available, the person's nationality; a brief statement of the facts of the case; the time and location of the offense (to the extent possible); a description of the laws violated; a statement of the existence of a warrant of arrest or detention or a judgment of conviction against that person; and a statement of intention to request the extradition of the person sought.
3. The requesting Government shall be notified without delay of the disposition of its request for provisional arrest and the reasons for any inability to proceed with the request.
4. A person who is provisionally arrested or detained may be discharged from custody upon the expiration of sixty (60) days from the date of arrest or detention pursuant to such application if the request for extradition referred to in Article VI of Title Two of this Agreement has not been received by the requested Government. Such termination and discharge shall not prevent the institution of further proceedings for the extradition of that person.